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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/580,591	05/26/2000	Robert A. Levy	11819-002001	9499

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KIRKPATRICK & LOCKHART NICHOLSON GRAHAM LLP
(FORMERLY KIRKPATRICK & LOCKHART LLP)
75 STATE STREET
BOSTON, MA 02109-1808

EXAMINER

WON, MICHAEL YOUNG

ART UNIT	PAPER NUMBER
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2155

DATE MAILED: 08/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/580,591

Applicant(s)

LEVY, ROBERT A.

Examiner

Michael Y. Won

Art Unit

2155

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☒ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ATTACHED.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1, 2, 10-13, 17, 20, 21, 28-32, and 34 have been amended.
2. Claims 1-35 have been re-examined and are pending with this action.
3. Applicant's amendment and arguments with respect to claims 1-35, filed on April 18, 2005, have been fully considered but they are deemed to be moot in view of the new grounds of rejection.

Claim Rejections - 35 USC § 112

4. Rejection of claims 1, 2, 10-13, 17, 20 and 28-30 under 35 U.S.C. 112, second paragraph, has been withdrawn in view of the amendment filed April 18, 2005.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

5. Claims 1-7, 11-18, 20-26, and 28-35 are rejected under 35 U.S.C. 102(e) as being anticipated by Beck et al. (US 6,587,832 B1).

As per **claims 1, 11, 12, 28, and 30**, Beck teaches of a system, a method, and an apparatus comprising a computer-readable medium or memory which stores computer instructions and a processor that executes the computer instructions for implementing an application for obtaining information about the work activities of a plurality of employees (see col.1, lines 6-8), comprising:

a server for providing a site through which each of the plurality of employees creates a profile of the work activities of the employee selected from a directory of work activities (see Figures 3-5; col.2, lines 16-18; col.6, lines 52-54; and col.13, lines 41-52), each work activity in the directory being classified by the work activity group and further defined by organizational level within each work activity group (see col.1, line 45-col.2, line 7: "job family and levels of responsibility" and "category/level of responsibility, or simply C/L"; and col.8, line 34-col.12, line 59); and

a computer (see col.1, lines 34-35) capable of accessing the site over a network, each of the plurality of employees using the computer to create the profile of the work activities of the employee and transmit the information about the work activities of the employee to the server (see col.13, lines 41-52);

wherein the server calculates a market value for the profile of the work activities of the plurality of employees including by correlating the work activities of the employee into work activity groups (see col.1, line 45 to col.2, line 7: "job families"), and

correlating the organizational levels of the work activities performed within each work activity group (see col.1, line 45 to col.2, line 7: "category/level of responsibility, or simply C/L"),

the number of work activities performed at each organizational level within each work activity group (see Fig.1A, step 13; and col.4, lines 58-62: "combined into data points by assignment to each observed job family"),

the percentage of time allocated to the aggregate work activities within each work activity group (see Fig.5A: Responsibility Level) and

external market rates of the work activities within each work activity group (see Fig.1A, step 11; and col.4, lines 55-58).

As per **claims 21, 32, and 34**, Beck teaches of a system, a method, and an apparatus comprising a computer-readable medium or memory which stores computer instructions and a processor that executes the computer instructions for implementing an application for implementing an application to obtain information about the work activities of an employees (see col.1, lines 6-8), comprising:

providing a site accessible to the employee over a network (see col.2, lines 16-18 and col.13, lines 41-42);

creating a profile of the work activities of the employee at the site, wherein the work activities are selected from a directory of work activities (see Figures 3-5; col.2, lines 16-18; col.6, lines 52-54; and col.13, lines 41-52), each work activity in the directory being classified by the work activity group and further defined by organizational level within each work activity group (see col.1, line 45-col.2, line 7: "job family and levels of responsibility" and "category/level of responsibility, or simply C/L"; and col.8, line 34-col.12, line 59); and

analyzing the profile of the work activities of the employee including by correlating the work activities of the employee into work activity groups (see col.1, line 45 to col.2, line 7: "job families"), and correlating the organizational levels of the work activities performed within each work activity group (see col.1, line 45 to col.2, line 7: "category/level of responsibility, or simply C/L"), the number of work activities performed at each organizational level within each work activity group (see Fig.1A, step 13; and col.4, lines 58-62: "combined into data points by assignment to each observed job family"), the percentage of time allocated to the aggregate work activities within each work activity group (see Fig.5A: Responsibility Level) and external market rates of the work activities within each work activity group (see Fig.1A, step 11; and col.4, lines 55-58).

DEPENDENT:

As per **claim 2**, Beck further teaches wherein the server is capable of performing an analysis of the work activities of the employee based on the profile of the work activities of the employee and the calculated market value (see col.1, lines 37-41 and col.13, lines 7-8).

As per **claims 3, 13, 22, 29, 31, 33, and 35**, Beck further teaches wherein the server is capable of generating a report based on the work activities of the employee in the profile (see Fig.3 and col.13, lines 10-18).

As per **claim 4**, Beck further teaches wherein the network is a network known as the Internet (see col.2, lines 16-18).

As per **claims 5 and 6**, Beck teaches of further comprising a database including work activity values for work activities of the employee in the profile and a database including a directory of work activities used to create the profile (see col.6, lines 52-54 and col.13, lines 41-52).

As per **claim 7**, Beck further teaches wherein the profile contains a plurality of groups of work activities (see col.1, line 45-col.2, line 7: "job family and levels of responsibility" and "category/level of responsibility, or simply C/L"; and col.8, line 34-col.12, line 59).

As per **claims 14, 15, 23 and 24**, Beck teaches of further comprising adding and deleting work activities of the employee to the profile (see col.6, lines 52-54: "according to the user selection") .

As per **claims 16 and 25**, Beck teaches of further comprising providing a template for the employee to create the profile (see col.6, lines 52-54 and col.13, lines 41-45).

As per **claim 17**, Beck teaches of further comprising, converting the market valuation for the profile to a local geographic equivalent value (see col.14, lines 47-49).

As per **claims 19 and 26**, Beck teaches of further comprising, assessing a capability of the employee with respect to the work activities in the profile (see Fig.3).

As per **claim 20**, Beck further teaches wherein the work activities group values for the groups of work activities are weighted to calculate the market valuation for the profile (see col.7, lines 42-43).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 8-10, 19, and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beck et al. (US 6,587,832 B1) in view of Skinner et al. (US 5,963,914 A).

As per **claims 8, 19, and 27**, Beck does not explicitly teach wherein the employee assigns a percentage of the employee's time to each group of work activities

in the profile. Skinner teaches wherein the employee assigns a percentage of the employee's time to each group of work activities in the profile (see col.1, lines 38-40; col.4, lines 39-43; and col.16, line 46 to col.17, line 20).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to employ the teachings of Skinner within the system of Beck by implementing assigning percentage of the employee's time to each group of work activities in the profile within the system, method and apparatus for obtaining information about the work activities of a plurality of employees because such means provides a more accurate assessment of an employee's market value.

As per **claim 9**, Beck further teaches wherein a work activities group value is calculated for each group of work activities (see col.7, lines 42-col.8, lines 6).

As per **claim 10**, Beck further teaches wherein the work activities group values for the groups of work activities are weighted to calculate the market valuation for the profile (see col.7, lines 42-43).

Response to Arguments

7. Applicant's arguments with respect to claims 1-9, 11-16, 18-19, and 21-35 regarding "*prima facie* case of obviousness" have been considered but are moot in view of the new ground(s) of rejection. A new reference has been discovered to teach the amended limitation (see rejection set forth above).

Applicant's arguments with respect to the references of *Skinner* et al., *Sanders*, and *Paizis* have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

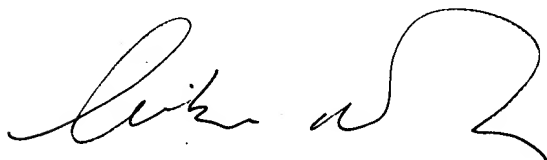
9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Y. Won whose telephone number is 571-272-3993. The examiner can normally be reached on M-Th: 7AM-5PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saleh Najjar can be reached on 571-272-4006. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Michael Won



August 8, 2005



SALEH NAJJAR
PRIMARY EXAMINER